THE HON'BLE SRI JUSTICE GODA RAGHURAM

Writ Petition No.10590 of 2006

Dated: 25.06.2007

Between

Immani Satyanarayana s/o late Sambayya and others.

.....Petitioners

and

The District Collector, West Godavari District, Eluru and another.

....Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

Writ Petition No.10590 of 2006

ORDER:

The four petitioners assail the notification, dated 07.05.2006, whereunder their lands in Purshothapalli village, Nidadavole Mandal, West Godavari District are notified under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') for acquisition, for the purpose of providing house sites for the people belonging to the weaker sections. Urgency has been invoked in the notification and enquiry under Section 5(A) of the Act has been dispensed with exercising power under Section 17 of the Act. The petitioners claim to be small farmers having small extents of land in the village and also that there are other Government lands which could be usefully employed for providing house sites to the weaker sections. It is also alleged by the petitioners that the Gram

Panchayat had passed a resolution on 25.05.2003 on the available land of Acs.4.00 (belonging to the Gram Panchayat) in R.S.No.44/2, another extent of Acs.1.60 of poramboke land and also the extents of Acs.0.90 cents and Acs.1.50 cents are available as Gramakantam and this could be allotted to landless poor persons. Despite abundant availability of alternative Government land, the State is arbitrarily proceeding to deprive the petitioners of their lands, by the process of acquisition is the substratum of the writ petition.

On behalf of the respondents, the second respondent filed a counter affidavit asserting that urgency was invoked having regard to the urgent State policy of expedition provision of land for the landless poor persons belonging to the weaker sections. The counter affidavit contests the petitioners' claim of being landless poor and marginal farmers. In para-5 of the counter affidavit, it is clearly and categorically asserted that each of the petitioners is having extents of double crop wet lands which places them beyond the status of being small and marginal farmers. With regard to the petitioners' allegations that there are alternative Government lands available, para-7 of the counter affidavit asserts that in the village sites stated to be available, in R.S.No.44/2, a site in an extent of Acs.24.43 cents there are a number of private houses, Z.P. High School, Church etc., and in R.S.No.44/1, there is an Appingunta Cheruvu, in Survey No.44/3, Vadlamani Cheruvu and in Survey No.44/4,

Bandela Doddi. At present no vacant land is available in the village site poramboke. The counter affidavit categorically asserts that the petitioners are rich landlords and not small and marginal farmers and that in the circumstances, there is no irrationality in the acquisition of their lands.

The learned counsel for the petitioners would contend that in view of the extant administrative instructions, the lands of small and marginal farmers should not be acquired for providing house sites to the weaker sections and also recourse to land acquisition should not be made when alternative Government land is available. Without going into the question whether transgression of administrative instructions would invalidate the powers exercised by the District Collector under Section 4(1) of the Act, it requires to be held that since the petitioners are not small and marginal farmers, as per the averment in the counter affidavit, which has not been disputed and as no Government land in the village is available, which is also asserted in the counter affidavit and has not been disputed, there is no legal impediment to the process of acquisition.

On 31.05.2006, while directing the writ petition to be listed for admission on 19.06.2006, interim stay of dispossession of the petitioners of their lands was granted till 19.06.2006. Thereafter, there is no extension of the interim orders. The notification under Section 4(1) of the Act is dated 07.05.2006. Though the salutary process of

enquiry under Section 5(A) of the Act has been dispensed with and without reasonable cause, this Court is not inclined to direct an enquiry afresh under Section 5(A) of the Act, since the objections to the acquisition of the land urged in this writ petition have been considered in the context of the averments in the counter affidavit filed by the respondents. A repetition of a 5(A) enquiry would therefore be a vacuous exercise.

For the aforesaid reasons and the circumstances discernable from the record of the case, this Court discerns no infirmity in the process of acquisition of the petitioners' lands by the notification under Section 4(1) of the Act, dated 07.05.2006.

There are no merits in the writ petition and the same is accordingly dismissed. No costs.

GODA RAGHURAM, J

25.06.2007
VGB